

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA       )  
  ) Case Number  
  ) AU:23-CR-100-DAE  
vs.                                       )  
  )  
NATIN PAUL,                            ) Austin, Texas  
Defendant.                             ) December 20, 2023

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TRANSCRIPT OF PHONE CONFERENCE  
BEFORE THE HONORABLE DUSTIN M. HOWELL  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE GOVERNMENT:

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produced by computer-aided transcription.

1 (December 20, 2023 9:02 a.m.)

2 \* \* \*

3 THE COURT: Good morning. This is Judge Howell. Good  
4 morning, everyone. Laura, if you'll call the case please.

5 COURTROOM DEPUTY CLERK: The Court calls the following  
6 case for telephone conference, 1:23-CR-10-DAE, United States of  
7 America versus Natin Paul.

8 MR. GUESS: Dan Guess and Alan Buie for the  
9 government, Your Honor.

10 MR. MORRIS: Gerry Morris for the defendant, Natin  
11 Paul.

12 THE COURT: Thank you and good morning. All right.  
13 So this is a status conference we set a few months ago to check  
14 in on status of discovery and get a progress check in terms of  
15 our moving towards the July trial date that was currently set.  
16 We had set a sort of interim status conference in October. I  
17 just wanted to get a quick check in to check on progress and  
18 I'll get back to that where we left things off. I know  
19 circumstances on the ground changed and we'll get to all that  
20 as well, but before we do, I want to address a quick  
21 housekeeping matter. So we are all on the phone conference  
22 together, Ms. Thompson is in my courtroom and has the recording  
23 equipment going so we can record the hearing. The courtroom as  
24 it currently stands, I don't think there's anyone in the  
25 gallery. Can you confirm that, Ms. Thompson?

1 COURTROOM DEPUTY CLERK: That's correct, there's no  
2 one else here, Your Honor.

3 THE COURT: Okay. As it currently stands, though, it  
4 is open to the public and so the first question I want to pose  
5 to counsel is whether there is any reason for the courtroom to  
6 be sealed for the purpose of this hearing. Are we going to get  
7 into anything that should not be open to the public?

8 MR. GUESS: Nothing from the government, Your Honor.

9 MR. MORRIS: Nothing from the defense side, Your  
10 Honor.

11 THE COURT: Fair enough. And then I guess the second  
12 question, I don't know that we have the answer to this now, but  
13 ultimately if there's a transcript that's requested like we had  
14 at that October hearing, I'll leave it -- I think the way it's  
15 processed works is y'all reach out to the court reporter and  
16 then she prepares the transcript and I believe, and correct me  
17 if I'm wrong, y'all got more experience with this than I do,  
18 but she prepares that transcript and then y'all let her know if  
19 there's anything that needs to be sealed or redacted, correct?

20 MR. GUESS: Yes, sir.

21 MR. MORRIS: That's correct.

22 THE COURT: Okay. Doesn't sound like there's anything  
23 we need to address with respect to any future transcript  
24 requests and how those will be handled. Fair enough.

25 Moving into kind of the status conference, we left off

1 in middle of October. It was Mr. Gerger was still on the case,  
2 he and his associate and Ms. Morris (*sic*) have withdrawn. And  
3 Mr. Morris, you're the only attorney currently representing  
4 Mr. Paul in the case, right?

5 MR. MORRIS: I'm the only attorney who's made an  
6 appearance and I can clarify that.

7 THE COURT: Okay, well, let me kind of set the stage  
8 real quick and we'll get into everything, but where we left off  
9 I believe discovery was underway, the government produced some  
10 tranches of higher level documents with the understanding that  
11 once defense had a chance to review it that there might be more  
12 targeted discovery requests in production and that as of mid  
13 October I think that production had only kind of recently been  
14 made in the format that was able to be uploaded into the  
15 defendant's doc review system. And as I remember it, then we  
16 had that call. At that point, the additional four counts had  
17 not been added to the indictment. So since then we've got a  
18 superseding indictment with four additional counts which I  
19 think has been contemplated mid October, but has not yet been  
20 consummated. And since that time, Mr. Gerger has been, as I  
21 said, and Ms. Morris (*sic*) have withdrawn, leaving Mr. Morris as  
22 the only current attorney who's made an appearance. And then  
23 we've also on the government side, Mr. Almonte withdrew and has  
24 gone to private practice. Best wishes to him in his next  
25 chapter of his career. And so I guess where there's a couple

1 of questions I've got in my mind for this hearing are sort of  
2 what the current state of affairs is in light of the changes in  
3 counsel on both sides of the "V", has discovery continued along  
4 the schedule that was contemplated back in mid October or has  
5 that stalled out? And then ultimately I'd like your input on  
6 where we stand with respect to that July trial date that is  
7 still on the calendar and what y'all's thoughts are with  
8 respect to that.

9 I can tell you the fact that Judge Ezra, he and I  
10 didn't discuss this before this conference call, but I don't  
11 think he's going to want to move -- I don't think he's going to  
12 want to stay -- enter just a blanket stay or remove the trial  
13 date from the calendar. So under these circumstances, it might  
14 be appropriate to pick a new trial date, whatever order  
15 amending the scheduling order, if necessary, will need to  
16 include a definite trial date, and so that is kind of what I am  
17 hoping to discuss here. I reckon you guys have probably spoken  
18 some yourselves before this call, so I guess I'll turn it over  
19 to you, Mr. Guess, and Mr. Buie and let the government kind of  
20 chime in and then, Mr. Morris, I'll hear from you.

21 MR. BUIE: Right. Judge, Alan Buie here. And so you  
22 very accurately summarized where things stood seemed to be  
23 discovery as of our last conversation and what would have been  
24 this next stage which would have been for Mr. Gerger and his  
25 firm to come back to us and say, well, let's have this

1 additional tranche of discovery that we think we need. That  
2 basically didn't ever happen because Mr. Gerger's firm let us  
3 know that they were going to be withdrawing and it was this  
4 kind of a matter of time. When Mr. Gerger and I -- well, we  
5 then subsequently spoke right after the superseding indictment  
6 was returned and I asked him if they were planning to withdraw  
7 whether they wanted to talk about discovery and get into the  
8 sort of planning that and he said no, he thought it was better  
9 to wait until the substitution when the new team would join and  
10 then we would take that up. Because some time has passed and  
11 we haven't been able to speak with the attorneys who are going  
12 to be replacing Mr. Gerger's firm yet, we still haven't had  
13 that kind of a meeting, not that we couldn't have had it with  
14 Mr. Morris, but you know, I think everybody, and Mr. Morris can  
15 correct me if I have this wrong, but I think everyone has  
16 understood that Mr. Morris was not going to be, like, sole  
17 counsel for the defense on this. And so basically what we've  
18 done, Mr. Guess and I did speak with Mr. Morris a couple weeks  
19 ago to make sure that, you know, our understanding was correct  
20 and there was going to be additional attorneys joining the  
21 defense team, we decided to go ahead and make an initial  
22 discovery production related to the new charges, counts one  
23 through four of the superseding indictment just so that we  
24 could be moving forward and then it's kind of like the very  
25 first production that we did related to the original

1 indictment, it's just like, you know, interview memos and grand  
2 jury testimony and records that were produced to us by the  
3 government's most critical witnesses and just things that are  
4 so directly relevant to new charges that, like, this stuff is  
5 definitely going to get turned over, that we went ahead and  
6 delivered that initial tranche of discovery this week and we're  
7 preparing a second discovery production which is going to  
8 consist mainly of the government's forensic accounting analysis  
9 that goes -- that went into the first four counts of the  
10 superseding indictment which is related to the wire fraud  
11 scheme and that's kind of a substantial production. It's work  
12 product, it's also bank records, other things that really to  
13 make sense of it it's going to be logical I think to have a  
14 meeting and talk about that when we turn it over. So I guess  
15 the long and short is that what we were anticipating doing with  
16 Mr. Gerger's firm hasn't happened yet and I guess we'll wait  
17 and see whether the new attorneys that are going to join the  
18 defense team want to proceed along those same lines and we are  
19 making discovery production currently related to the new  
20 charges so that we get a good start on that. But again, I  
21 would anticipate that they're, whoever they are, if they're  
22 willing to do it, having a similar conversation to what we had  
23 previously with Mr. Gerger and Mr. Morris just talking about  
24 what does the government have, what is the case about and  
25 what's going to be the most beneficial way for us to proceed

1 discovery-wise to meet the needs of the defense team, so I'm  
2 kind of hoping we'll have that sort of conversation once the  
3 defense team is completely filled out and then we'll know more  
4 detail about how things are going to go. That's kind of where  
5 they are now discovery-wise.

6 MR. MORRIS: First thing -- sorry, go ahead.

7 THE COURT: No, yes, go ahead, Mr. Morris.

8 MR. MORRIS: First thing is I think you said a while  
9 ago that Mr. Gerger and Ms. Morris had withdrawn. It's Ms. Orr  
10 that withdrew.

11 THE COURT: Sorry about that.

12 MR. MORRIS: My wife has not made an appearance in the  
13 case yet.

14 First of all, Mr. Buie is quite right that my role in  
15 this case and my engagement in this case is to serve as local  
16 counsel, but not just be another pretty face, I'm definitely  
17 involved in the defense, but I made it clear to Mr. Paul that I  
18 cannot serve as sole counsel in this case consistent with the  
19 Rules of Disciplinary Procedure because I don't have the  
20 infrastructure to process the amount of discovery that we're  
21 looking at. So long and short of it is there will be  
22 additional counsel and I believe that is going to happen by the  
23 end of this week or possibly next week. The counsel will be  
24 from Williams and Connelly in Washington, D.C. whom I've met  
25 with and talked extensively with about the case and they have



1 begun work on the case, so they appear to be very much  
2 intending to stay involved. And I've stressed to everybody  
3 involved that this needs to happen and happen quickly because  
4 we don't have a blank check here as far as trial dates and so  
5 that's the understanding we're all working under that it will  
6 happen soon. Yes, they are aware that they're going to need to  
7 meet with Mr. Buie and others and get up to speed on the  
8 discovery and talk to the U.S. Attorney's Office about the  
9 format that discovery will be delivered in and, you know, do  
10 all the things they need to do to get ready. I've talked to  
11 them about of course the trial date. They're aware of the  
12 superseding indictment which was issued November 7, and their  
13 suggestion is going to be that the trial date be continued to  
14 some date in first quarter of 2015(*sic*). And their thinking on  
15 that is, first of all, just examination of the case, they think  
16 it will take that much time to get ready, but they think they  
17 can get ready by that period of time. But that would be -- if  
18 you look at the initial trial date, you look at the length of  
19 time between the original indictment and that trial date, an  
20 equal length of time between superseding indictment and a trial  
21 date would be first quarter of 2015(*sic*). And I don't know if  
22 the Court has looked at the superseding indictment, but there  
23 are different types of charges for what I'm going to call the  
24 standard fraud, wire fraud -- excuse me, theft, wire fraud as  
25 opposed to the ten, 14 counts which were a lot narrower in

1 their scope. So there's going to be a lot of stuff to go  
2 through that's going to be relevant to these different charges,  
3 a whole host of key witnesses to track down and try to  
4 interview, so there's a lot of work to be done. We've talked  
5 about the plan for doing it, so they're not starting from a  
6 flatfooted start when they come into the case. Did I cover  
7 everything that the Court was interested in?

8 THE COURT: Yes. I think, though, Mr. Buie, what do  
9 you think about the recommendation of a date pushing the trial  
10 out to first quarter of 2025?

11 MR. BUIE: So I talked to Mr. Morris earlier today  
12 about that and as I told him, you know, the timing is not as  
13 crucial for the government perhaps as it is for the defense.  
14 You know, we have been working on this a long time and so our  
15 main position on timing is, you know, just that we're going to  
16 work with the defense and the Court to, you know, move things  
17 forward as quickly as we can. I think we haven't -- the timing  
18 is something that we will probably, A, want to discuss with our  
19 management, our executive level management because this is a  
20 significant case for the office, and then I'm sure we'll be  
21 discussing it with Mr. Morris and Williams and Connelly. We  
22 may end up wanting to try to arrive at an agreement for a trial  
23 date sooner than 2025, but again, I mean, it's all very new and  
24 we don't have really a definite position on it other than  
25 obviously we're going to do everything we can to move the case

1 forward, cooperate with the defense and see what the Court  
2 tells us to do, so it may be that we're going to want it to be  
3 sooner than 2025, but we kind of need to discuss that  
4 internally and also talk about it with -- when we have our  
5 discovery meeting before we have a real strong position. I  
6 don't want to say right now right off the cuff exactly what our  
7 position would be on that, but those are kind of at least the  
8 broad outlines of my thoughts on it.

9 MR. MORRIS: Your Honor.

10 THE COURT: Go ahead.

11 MR. MORRIS: One thing I need to mention as kind of a  
12 I guess an elephant in the room is there is another  
13 investigation underway that involves Mr. Paul that's being done  
14 by the Department of Justice and we have no idea of what the  
15 outcome of that's going to be and what the timeline is going to  
16 be because they won't talk to us. And I think Mr. Buie may be  
17 in the same position on that, it's kind of a wall that's been  
18 constructed between that investigation and this one. So there  
19 may be other events that happen that affect what we're talking  
20 about and I bring that up for another reason that just to let  
21 you know that there's still another chapter to be written here,  
22 and I don't know if Mr. Paul is going to be charged or what. I  
23 just have no idea.

24 MR. BUIE: Yeah, and Mr. Morris is right, we don't  
25 know either. That's a matter that we don't participate in and

1 don't really have eyes on, so I am not -- I would echo what  
2 Mr. Morris said that that investigation is out there and if it  
3 were to result in charges against Mr. Paul, then I think that  
4 would definitely alter the landscape, but we're not in any  
5 position here to know whether that is a significant possibility  
6 or not, we have no idea.

7 THE COURT: Right. I think for our purposes today  
8 that's maybe too much of an unknown then to try and account for  
9 it. Obviously, things change, as they have already in this  
10 case, we just sort of adjust as we go.

11 MR. BUIE: Right. If I may just add a couple more  
12 observations about the real big picture. So without -- never  
13 say never, but at this point, Mr. Guess and I view the pending  
14 superseding indictment as being all of the charges that our  
15 office is likely to bring, so I can't absolutely promise  
16 there's no, you know, nothing could come up that would lead to  
17 additional charges, but for the Court's information what we're  
18 working on now is not really investigating additional charges  
19 and a second superseding indictment. That's not our focus.  
20 We're working on discovery and eventually, you know, trial  
21 preparation. So at this point, I'll just say I would be  
22 surprised if we ended up superseding the indictment again and  
23 adding more charges. I think the 12 counts that are pending is  
24 what the Court should expect to go to trial, you know, assuming  
25 there's no motion practice or whatever else the case may be.

1 And when we talked before, I can't remember if we got into  
2 talking about the length of the trial. I think we did. With  
3 the original eight counts I was estimating about 15, one/five,  
4 hours of direct examination without trying to estimate  
5 cross-examination or recross and without trying to estimate  
6 what the government's rebuttal case might look like just  
7 because, you know, that's just really hard to handicap when you  
8 don't know exactly what the defense is going to be and all of  
9 that. At that point I was thinking a dozen witnesses, maybe 15  
10 hours of direct exam as far as the government's case in chief.  
11 Now with the additional scheme that we've introduced in the  
12 first four counts, I'm now thinking more in terms of probably  
13 two dozen witnesses roughly in the government's case in chief  
14 and more like 25, 26 hours of direct exam of -- and as I sketch  
15 it out, most of these witnesses, just to provide a little bit  
16 more color, most of these witnesses I'm thinking we put on and  
17 pass the witness in no more than an hour. And then we have a  
18 couple of witnesses that, you know, one witness who was  
19 involved in several transactions that are kind of complicated,  
20 he may need to get two hours, and then our FBI forensic  
21 accountant who has a lot of materials to put in, that's more of  
22 a three or four-hour kind of project putting him on. So that's  
23 where I'm getting to those numbers of a couple dozen witnesses,  
24 25, 26 hours of direct exam and then depending on what happens  
25 beyond that and you can kind of extrapolate that throughout the

1 length of trial. If the combined cross and redirect was double  
2 the length of the initial direct exam, then you're looking at  
3 maybe 50, five/zero, hours with time with the witness on the  
4 stand and just however long that takes. That's probably going  
5 to be a couple of weeks just for the government's case in chief  
6 I think, and so defense case, however much longer, but that's  
7 about the best I can do at this point as far as estimating how  
8 big a block of time we're going to need on the Court's calendar  
9 for trial. I think we've got like two weeks probably for the  
10 government's case in chief if you consider jury selection and  
11 everything else that has to happen before you even kick off  
12 evidence, and then probably the government resting sometime  
13 before the end of the second week, you know, with the charge.

14 MR. MORRIS: I have no idea how long defense case  
15 would take at this point. We're mostly reactive to the  
16 discovery we get to the government's case. We don't know  
17 anything yet.

18 THE COURT: That's helpful. All right. Anything else  
19 that we should discuss while we're all here together on this  
20 call?

21 MR. BUIE: Not from the government, Judge. Unless  
22 there are questions, we're happy to respond, but I think what  
23 we're looking at is when Williams and Connelly enters their  
24 appearance or enter perhaps that we'll be convening with them  
25 and Mr. Morris as soon as possible to get to work on discovery

1 and whatever else is needed, and I'm sure we'll be talking to  
2 them about timing as well.

3 MR. MORRIS: I'll tell them that they need to file a  
4 formal motion for continuance so that there will be something  
5 before the Court to rule upon and maybe additional things,  
6 factors that we'll put into the motion that will guide the  
7 Court on trial date, but we'll follow it up with a -- follow  
8 this conversation up with a formal motion.

9 THE COURT: That makes the most sense in terms of next  
10 steps from this call is exactly what you proposed, Mr. Morris.  
11 Assuming that Williams and Connelly enters their appearance  
12 this week or next and we've got holidays happening in between  
13 and I assume the huddle between those lawyers and government  
14 lawyers takes place sometime in mid January, am I accurate as a  
15 safe guess at this point?

16 MR. MORRIS: That's a safe guess, I think.

17 THE COURT: I suspect after that meeting, you'll have  
18 what you need to make a motion for continuance and kind of tee  
19 that issue up so that I suspect Judge Ezra will refer that to  
20 me to handle, that you have a more detailed plan and kind of  
21 conferring you guys can do to make a proposal on a practical  
22 way to move forward that will facilitate the conversation we  
23 have in the hearing on the motion for continuance. I'll leave  
24 that to y'all to get that going and so I'll just be on the  
25 lookout for that motion. But I take it, then, Mr. Morris, that

1 you anticipate that a motion to continue along those lines  
2 could probably be filed by the end of January?

3 MR. MORRIS: I would hope so, Your Honor. If you  
4 order that, it certainly will happen, but I'd rather keep it a  
5 little fluid because I-- it should be done by end of January.

6 THE COURT: Mr. Buie, any comment on that?

7 MR. BUIE: Not really, Judge, I don't have anything to  
8 add.

9 THE COURT: I think rather than ordering it at this  
10 point, I'll just add a note to my calendar that keep an eye out  
11 for that motion in that last week of January and if it hasn't  
12 come through, then maybe I'll ping y'all or prod or at least  
13 see if we can't get on another call to see where we are after  
14 that. Sound like a plan?

15 MR. BUIE: Sounds good, Judge.

16 MR. MORRIS: Yes.

17 THE COURT: Okay. Well, if there's not anything else  
18 for us to discuss, correct?

19 MR. BUIE: Not from the government.

20 MR. MORRIS: Not from the defense.

21 THE COURT: Then I'll share this information with  
22 Judge Ezra and we'll watch for that motion next month and then  
23 we'll proceed from there. I appreciate all of everyone's hard  
24 work in working this case up and hope all of you have a happy  
25 and festive holiday season.



1 MR. MORRIS: Thank you, Your Honor, same to you.

2 MR. BUIE: Thank you, Judge.

3 (9:32 a.m.)

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1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF TEXAS

3  
4 I certify that the foregoing is a correct transcript from  
5 the record of proceedings in the above-entitled matter. I  
6 further certify that the transcript fees and format comply with  
7 those prescribed by the Court and the Judicial Conference of  
8 the United States.

9  
10 Date signed: February 13, 2024

11  
12 /s/ Angela M. Hailey

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